United Nations

Report of the International Court of Justice

1 August 1996 - 31 July 1997

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Supplement No. 4 (A/52/4)

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NOTE

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I. COMPOSITION OF THE COURT

1. The present composition of the Court is as follows: President: Stephen M. Schwebel; Vice-President: Christopher G. Weeramantry; Judges: Shigeru Oda, Mohammed Bedjaoui, Gilbert Guillaume, Raymond Ranjeva, Géza Herczegh, Shi Jiuyong, Carl-August Fleischhauer, Abdul G. Koroma, Vladlen S. Vereshchetin, Rosalyn Higgins, Gonzalo Parra-Aranguren, Pieter H. Kooijmans and Francisco Rezek.

2. On 6 November 1996 the General Assembly and the Security Council re-elected Judges M. Bedjaoui, S. M. Schwebel and V. S. Vereshchetin and elected Mr. Pieter H. Kooijmans and Mr. Francesco Rezek, as Members of the Court for a term of nine years beginning on 6 February 1997. At a public sitting of the Court, held on 3 March 1997, Judges Kooijmans and Rezek made the solemn declaration provided for in Article 20 of the Statute.

3. On 6 February 1997, the Court elected Judge Stephen M. Schwebel as President and Judge Christopher G. Weeramantry as Vice-President of the Court, for a term of three years.

4. The Registrar of the Court is Mr. Eduardo Valencia-Ospina. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez.

5. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure. On 7 February 1997, this Chamber was constituted as follows:

Members

President, S. M. Schwebel

Vice-President, C. G. Weeramantry

Judges, G. Herczegh, Shi Jiuyong and A. G. Koroma

Substitute Members

Judges R. Higgins and G. Parra-Aranguren

6. In the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), Qatar had chosen Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges ad hoc. Following Mr. Ruda's death, Qatar has chosen Mr. Santiago Torres Bernárdez to sit as judge ad hoc. Mr. Valticos resigned as of the end of the

jurisdiction and admissibility phase of the proceedings. Bahrain subsequently chose Mr. Mohamed Shahabuddeen to sit as judge ad hoc.

7. In the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America), Libya has chosen Mr. Ahmed Sadek El-Kosheri to sit as judge ad hoc.

8. In the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Iran has chosen Mr. François Rigaux to sit as judge ad hoc.

9. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Bosnia and Herzegovina has chosen Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges ad hoc.

10. In the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Slovakia has chosen Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

11. In the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Cameroon has chosen Mr. Kéba Mbaye and Nigeria Mr. Bola A. Ajibola to sit as judges ad hoc.

12. In the case concerning Fisheries Jurisdiction (Spain v.Canada), Spain has chosen Mr. Santiago Torres Bernárdez and Canada Mr. Marc Lalonde to sit as judges ad hoc.

II. JURISDICTION OF THE COURT

A. Jurisdiction of the Court in contentious cases

13. On 31 July 1997, the 185 States Members of the United Nations, together with Nauru and Switzerland, were parties to the Statute of the Court.

14. Sixty States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Colombia, Costa Rica, Cyprus, the Democratic Republic of Congo, Denmark, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, the Philippines, Poland, Portugal, Senegal, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed by those States will appear in Chapter IV, Section II, of the I.C.J. Yearbook 1996-1997. The declaration of Paraguay was deposited with the Secretary-General of the United Nations during the 12 months under review, on 25 September 1996.

15. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the I.C.J. Yearbook 1996-1997. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. Jurisdiction of the Court in advisory proceedings

16. In addition to the United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly, Committee on Applications for Review of Administrative Tribunal Judgements (for judgements rendered before 1 January 1996)), the following organizations are at present authorized to request advisory opinions of the Court on legal questions:

International Labour Organisation;

Food and Agriculture Organization of the United Nations;

United Nations Educational, Scientific and Cultural Organization;

International Civil Aviation Organization;

World Health Organization;

World Bank;

International Finance Corporation;

International Development Association;

International Monetary Fund;

International Telecommunication Union;

World Meteorological Organization;

International Maritime Organization;

World Intellectual Property Organization;

International Fund for Agricultural Development;

United Nations Industrial Development Organization;

International Atomic Energy Agency.

17. The international instruments which make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the I.C.J. Yearbook 1996-1997.

III. JUDICIAL WORK OF THE COURT

18. During the period under review nine contentious cases were pending. The Court held 22 public sittings and a great number of private meetings. It delivered a Judgment on its jurisdiction in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America); and made an Order concerning a visit in situ in the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia).

19. The President of the Court made Orders concerning time-limits in the case concerning the Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain) and in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America.

1. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

20. On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

21. Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of Qatar, invalid, beyond the power of the British in relation to the two States, and not binding on Qatar.

22. With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar

had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

23. With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

24. Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the above-mentioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

25. The State of Qatar therefore requested the Court:

"I. To adjudge and declare in accordance with international law

(A) that the State of Qatar has sovereignty over the Hawar islands; and

(B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals; and

II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

26. In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

27. By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

28. At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (I.C.J. Reports 1991, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

29. By an Order of 26 June 1992 (I.C.J. Reports 1992, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

30. Qatar chose Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges ad hoc. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge ad hoc.

31. Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain. The Vice-President of the Court put questions to both the Parties.

32. At a public sitting held on 1 July 1994, the Court delivered a Judgment (I.C.J. Reports 1994, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

33. Judge Shahabuddeen appended a declaration to the Judgment (I.C.J. Reports 1994, p. 129); Vice-President Schwebel and Judge ad hoc Valticos appended separate opinions (ibid., pp. 130 and 132); and Judge Oda appended his dissenting opinion (ibid., p. 133).

34. On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994." On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled "Report of the State of Bahrain to the International Court of Justice on the Attempt by the Parties to Implement the Court's Judgment of 1st July, 1994".

35. In view of those communications, the Court resumed dealing with the case.

36. At a public sitting held on 15 February 1995, the Court delivered a Judgment on jurisdiction and admissibility (I.C.J. Reports 1995, p. 6) by which it found that it had jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain and that the Application of the State of Qatar as formulated on 30 November 1994 was admissible.

37. Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge ad hoc Valticos appended dissenting opinions to the Judgment (I.C.J. Reports 1995, pp. 27, 40, 51, 67 and 74).

38. Judge ad hoc Valticos resigned as of the end of the jurisdiction and admissibility phase of the proceedings.

39. By an Order of 28 April 1995 (I.C.J. Reports 1995, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996 (I.C.J. Reports 1996, p. 6), extended that time-limit to 30 September 1996. The two Memorials were filed within the thus extended time-limit.

40. By an Order of 30 October 1996, the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits.

41. As Judge ad hoc Valticos had resigned (see above, para. 39), Bahrain chose Mr. Mohamed Shahabudden to sit as judge ad hoc.

2, 3. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)

42. On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of disputes with each of the Governments of those two States over the interpretation and

application of the Montreal Convention of 23 September 1971, disputes which are argued by Libya to relate to the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

43. In the two Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, alleging that those Libyan nationals caused a bomb to be placed aboard the Pan-Am flight 103. The bomb subsequently exploded over Lockerbie, causing the aeroplane to crash, as a consequence of which 270 persons were killed. The death toll included all the passengers and crew as well as inhabitants of Scotland.

44. Libya contended that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

45. Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

46. According to the two Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, nor had the States concerned been able to agree upon the organization of arbitrations between Libya and the United States, and between Libya and the United Kingdom, to hear the matter, as provided for by the Montreal Convention. Libya therefore submitted its dispute with the United States, and its dispute with the United Kingdom, to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

47. Libya requested the Court to adjudge and declare as follows:

(a) that Libya has fully complied with all of its obligations under the Montreal Convention;

(b) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(c) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

48. Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(a) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(b) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's two Applications.

49. In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Orders the Court might make on Libya's requests for provisional measures to have their appropriate effects.

50. By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated inter alia that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

51. Libya chose Mr. Ahmed S. El-Kosheri to sit as judge ad hoc in both cases.

52. At the opening of the hearings on the requests for the indication of provisional measures on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the requests for the indication of provisional measures. A Member of the Court put questions to both Agents in each of the two cases and the Judge ad hoc put a question to the Agent of Libya.

53. At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (I.C.J. Reports 1992, pp. 3 and 114), in which it found that the circumstances of each case were not such as to require the exercise of its power to indicate such measures.

54. Acting President Oda (ibid., pp. 17 and 129) and Judge Ni (ibid., pp. 20 and 132) each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar-Mawdsley appended a joint declaration (ibid., pp. 24 and 136). Judges Lachs (ibid., pp. 26 and 138) and Shahabuddeen (ibid., pp. 28 and 140) appended separate opinions; and Judges Bedjaoui (ibid., pp. 33 and 143), Weeramantry (ibid., pp. 50 and 160), Ranjeva (ibid., pp. 72 and 182), Ajibola (ibid., pp. 78 and 183) and Judge ad hoc El-Kosheri (ibid., pp. 94 and 199) appended dissenting opinions to the Orders.

55. By Orders of 19 June 1992 (I.C.J. Reports 1992, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorial of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America. The Memorials were filed within the prescribed time-limit.

56. On 16 and on 20 June 1995 respectively the United Kingdom and the United States of America filed preliminary objections to the jurisdiction of the Court to entertain the Applications of the Libyan Arab Jamahiriya.

57. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

58. After a meeting had been held, on 9 September 1995, between the President of the Court and the Agents of the Parties to ascertain the latters' views, the Court, by Orders of 22 September 1995 (I.C.J. Reports 1995, p. 282 and 285), fixed, in each case, 22 December 1995 as the time-limit within which the Libyan Arab Jamahiriya might present a written statement of its observations and submissions on the preliminary objections raised by the United Kingdom and the United States of America respectively. Libya filed such statements within the prescribed time-limits.

59. The Secretary-General of the International Civil Aviation Organization, which had, in accordance with Article 34, paragraph 3, of the Statute, been informed that the interpretation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aircraft, concluded in Montreal on 23 September 1971, was in issue in the two cases and been communicated copies of the written proceedings, informed the Court that the Organization had "no observation to make for the time being", requesting, however, to be kept informed of the developments of the two cases, in order to determine whether it would be appropriate to submit observations at a later stage.

60. The public sittings to hear the oral arguments of the Parties on the preliminary objections raised by the United Kingdom and the United States of America respectively will open on 13 October 1997.

4. Oil Platforms (Islamic Republic of Iran v.

United States of America)

61. On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America with respect to the destruction of Iranian oil platforms.

62. The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Iran/United States Treaty of Amity, Economic Relations and Consular Rights, signed at Tehran on 15 August 1955.

63. In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X (1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

64. The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

"(a) That the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;

(b) That in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, inter alia, under Articles I and X (1) of the Treaty of Amity and international law;

(c) That in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X(1), and international law;

(d) That the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(e) Any other remedy the Court may deem appropriate."

65. By an Order of 4 December 1992 (I.C.J. Reports 1992, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

66. By an Order of 3 June 1993 (I.C.J. Reports 1993, p. 35) the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

67. The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge ad hoc.

68. On 16 December 1993, within the extended time-limit for the filing of the Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction. In accordance with the terms of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (I.C.J. Reports 1994, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objection. That written statement was filed within the prescribed time-limit.

69. Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

70. At a public sitting held on 12 December 1996, the Court delivered its Judgment on the preliminary objection, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

(1) rejects, by fourteen votes to two, the preliminary objection of the United States of America according to which the Treaty of 1955 does not provide any basis for the jurisdiction of the Court;

IN FAVOUR: President Bedjaoui; Judges Guillaume, Shahabuddeen, Weeramantry, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Ferrari Bravo, Higgins, Parra-Aranguren; Judge ad hoc Rigaux;

AGAINST: Vice-President Schwebel; Judge Oda;

(2) finds, by fourteen votes to two, that it has jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by the Islamic Republic of Iran under Article X, paragraph 1, of that Treaty.

IN FAVOUR: President Bedjaoui; Judges Guillaume, Shahabuddeen, Weeramantry, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Ferrari Bravo, Higgins, Parra-Aranguren; Judge ad hoc Rigaux;

AGAINST: Vice-President Schwebel; Judge Oda."

Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge ad hoc Rigaux appended separate opinions to the Judgment of the Court;

Vice-President Schwebel and Judge Oda appended dissenting opinions.

71. By an Order of 16 December 1996, the President of the Court, taking into account the agreement of the Parties, fixed 23 June 1997 as the time-limit for the filing of the Counter-Memorial of the United States of America. Within the time-limit thus fixed the United States filed the Counter-Memorial and a Counter-Claim, requesting the Court to adjudge and declare:

"1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-88 that were dangerous and detrimental to maritime

commerce, the Islamic Republic of Iran breached its obligations to the United States under Article X of the 1955 Treaty, and

2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)

72. On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the International Court of Justice an Application instituting proceedings against the Federal Republic of Yugoslavia "for violating the Genocide Convention".

73. The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia. It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

74. The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

75. In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

"(a) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II (a), II (b), II (c), II (d), III (a), III (b), III (c), III (d), III (e), IV and V of the Genocide Convention;

(b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional

Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

— armed attacks against Bosnia and Herzegovina by air and land;

— aerial trespass into Bosnian airspace;

— efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina

under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of ultra vires;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina - at its request - including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

— from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;

— from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;

— from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;

— from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from the starvation of the civilian population in Bosnia and Herzegovina;

— from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;

— from all use of force - whether direct or indirect, overt or covert - against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;

— from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;

— from all support of any kind - including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support - to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as parens patriae for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

76. On the same day, the Government of Bosnia and Herzegovina, stating that:

"The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

"The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia

and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

77. The provisional measures requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support - including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support - to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment, and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina - at its request - including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

78. Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

79. At a public sitting held on 8 April 1993, the President of the Court read out the Order on the request for provisional measures made by Bosnia and Herzegovina (I.C.J. Reports 1993, p. 3) by which the Court indicated, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia, the following provisional measures:

(a) The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide; and the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not

commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group.

(b) The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

80. Judge Tarassov appended a declaration to the Order (ibid., pp. 26-27).

81. By an Order of 16 April 1993 (I.C.J. Reports 1993, p. 29) the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia.

82. Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges ad hoc.

83. On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the Respondent has violated each and everyone of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People - whether Muslim, Christian, Jew, Croat or Serb - the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign state of Bosnia and Herzegovina - a Member of the United Nations Organization - by means of genocide."

84. The provisional measures then requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support - including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support - to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.

2. That Yugoslavia (Serbia and Montenegro) and all of its public officials - including and especially the President of Serbia, Mr. Slobodan Milosevic — must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.

3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void ab initio.

4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.

5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.

6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstance, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

85. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects", and stating:

"I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.

Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

86. On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

"The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within

its power to prevent commission of the crime of genocide against the Serb ethnic group."

87. The hearings concerning the requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties. Judges put questions to both Parties.

88. At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning requests for the indication of provisional measures (I.C.J. Reports 1993, p. 325) by which the Court reaffirmed the provisional measures indicated in its Order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

89. Judge Oda appended a declaration to the Order (I.C.J. Reports 1993, p. 351); Judges Shahabuddeen, Weeramantry and Ajibola and Judge ad hoc Lauterpacht appended their individual opinions (ibid., pp. 353, 370, 390 and 407); and Judge Tarassov and Judge ad hoc Kreća appended their dissenting opinions (ibid., pp. 449 and 453).

90. By an Order of 7 October 1993 (I.C.J. Reports 1993, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Memorial was filed within the prescribed time-limit.

91. By an order of 21 March 1995 (I.C.J. Reports 1995, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia.

92. On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia, filed certain preliminary objections in the above case. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

93. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

94. By an Order of 14 July 1995, the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia. Bosnia and Herzegovina filed such a statement within the prescribed time-limit.

95. Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Yugoslavia were held between 29 April and 3 May 1996.

96. At a public sitting held on 11 July 1996, the Court delivered its Judgment on the preliminary objections, by which it rejected the objections raised by Yugoslavia, finding that, on the basis of Article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional bases of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

97. Judge Oda appended a declaration to the Judgment of the Court;

Judges Shi and Vereshchetin appended a joint declaration;

Judge ad hoc Lauterpacht also appended a declaration. Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the Judgment; Judge ad hoc Kreća appended a dissenting opinion.

98. By an Order of 23 July 1996, the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time-limit. It included counter-claims, by which Yugoslavia requested the Court to adjudge and declare:

"3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations

established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

— because it has incited acts of genocide by the "Islamic Declaration", and in particular by the position contained in it that" "there can be no peace or coexistence between 'Islamic faith' and 'non-Islamic' social and political institutions",

— because it has incited acts of genocide by the "Novi Vox", paper of the Muslim youth, and in particular by the verses of a "Patriotic Song" which reads as follows:

"Dear mother, I'm going to plant willows,
We'll hang Serbs from them.
Dear mother, I'm going to sharpen knives,
We'll soon fill pits again."

— because it has incited acts of genocide by the paper "Zmaj od Bosne", and in particular by the sentence in an article published in it that "Each Muslim must name a Serb and take oath to kill him";

— because public calls for the execution of Serbs were broadcast on radio "Hajat" and thereby acts of genocide were incited;

— because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;

— because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

6. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

99. On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the International Court of Justice an Application instituting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

100. A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

"When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

101. Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified

jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

102. In Article 2 of the Special Agreement:

"(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,

(a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;

(b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

103. By an Order of 14 July 1993 (I.C.J. Reports 1993, p. 319), the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

104. Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

105. By an Order of 20 December 1994 (I.C.J. Reports 1994, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

106. In June 1995 the Agent of Slovakia asked the Court, by letter, to visit the site of the Gabčíkovo-Nagymaros hydro-electric dam project on the river Danube with regard to the obtaining of evidence in the above case. The Agent of Hungary thereupon informed the Court that his country would be pleased to co-operate in organizing such a visit.

107. In November 1995, in Budapest and New York, the two Parties then signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

108. By an Order of 5 February 1997 (I.C.J. Reports 1997, p. 3) the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Article 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's fifty-year history, took place from 1 to 4 April 1997, between the first and second round of oral hearings.

109. The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. A video-film was shown by each of the Parties. Members of the Court put

questions to Hungary. The second round took place on 10 and 11 and on 14 and 15 April 1997. Members of the Court put questions to either or both of the Parties.

110. At the time of preparation of this Report, the Court is deliberating on its Judgment.

7. Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)

111. On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

112. As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

113. In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

"(a) that sovereignty over the peninsula of Bakassi is Cameroonian, by virtue of international law, and that that peninsula is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (uti possidetis juris);

(c) that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;

(d) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;

(e) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian peninsula of Bakassi;

(e') that the internationally unlawful acts referred to under (a), (b), (c), (d), and (e) above involve the responsibility of the Federal Republic of Nigeria;

(e") that, consequently, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] the precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions".

114. On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

"(a) that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (uti possidetis juris), and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;

(c) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;

(d) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;

(e) that the internationally unlawful acts referred to under (a), (b), and (d) above involve the responsibility of the Federal Republic of Nigeria;

(e') that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea".

115. Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

116. At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

117. Cameroon chose Mr. Kéba Mbaye and Nigeria Mr. Bola A. Ajibola to sit as judges ad hoc.

118. By an Order of 16 June 1994 (I.C.J. Reports 1994, p. 105), the Court, seeing no objection to the suggested procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

119. On 13 December 1995, within the time-limit for the filing of its Counter-Memorial, Nigeria filed certain preliminary objections to the jurisdiction of the Court and to the admissibility of the claims of Cameroon.

120. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

121. By an Order of 10 January 1996 (I.C.J. Reports 1996, p. 3), the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such a statement within the prescribed time-limit.

122. On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed

incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

123. In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

"(1) the armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;

(2) the Parties shall abstain from all military activity along the entire boundary until the judgment of the Court is given;

(3) the Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

124. Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

125. At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon (I.C.J. Reports 1996, p. 13), by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it;" that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi Peninsula;" that they "should ensure that the presence of any armed forces in the Bakassi Peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996;" that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area;" and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi Peninsula".

126. Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court (ibid., pp. 26, 28, 29 and 30); Judges Weeramantry, Shi and Vereshchetin appended a joint declaration (ibid., p. 31); Judge ad hoc Mbaye also appended a declaration (ibid., p. 32). Judge ad hoc Ajibola appended a separate opinion to the Order (ibid., p. 35).

8. Fisheries Jurisdiction (Spain v. Canada)

127. On 28 March 1995 the Kingdom of Spain filed in the Registry of the Court an Application instituting proceedings against Canada with respect to a dispute relating to the Canadian Coastal Fisheries Protection Act, as amended on 12 May 1994, and to the implementing regulations of that Act, as well as to certain measures taken on the basis of that legislation, more particularly the boarding on the high seas, on 9 March 1995, of a fishing boat, the Estai, sailing under the Spanish flag.

128. The Application indicated, inter alia, that by the amended Act "an attempt was made to impose on all persons on board foreign ships a broad prohibition on fishing in the NAFO Regulatory Area [NAFO - Northwest Atlantic Fisheries Organization], that is, on the high seas, outside Canada's exclusive economic zone"; that the Act "expressly permits (Article 8) the use of force against foreign fishing boats in the zones that Article 2.1 unambiguously terms the 'high seas'"; that the implementing regulations of 25 May 1994 provided, in particular, for "the use of force by fishery protection vessels against the foreign fishing boats covered by those rules ... which infringe their mandates in the zone of the high seas within the scope of those regulations"; and that the implementing regulations of 3 March 1995 "expressly permit [...] such conduct as regards Spanish and Portuguese ships on the high seas".

129. The Application alleged the violation of various principles and norms of international law and stated that there was a dispute between the Kingdom of Spain and Canada which, going beyond the framework of fishing, seriously affected the very principle of the freedom of the high seas and, moreover, implied a very serious infringement of the sovereign rights of Spain.

130. As a basis of the Court's jurisdiction, the Applicant referred to the declarations of Spain and of Canada made in accordance with Article 36, paragraph 2, of the Statute of the Court.

131. In that regard, the Application specified that:

> "The exclusion of the jurisdiction of the Court in relation to disputes which may arise from management and conservation measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area and the enforcement of such measures (Declaration of Canada, para. 2 (d), introduced as recently as 10 May 1994, two days prior to the amendment of the Coastal Fisheries Protection Act), does not even partially affect the present dispute. Indeed, the Application of the Kingdom of Spain does not refer exactly to the disputes concerning those measures, but rather to their origin, to the Canadian legislation which constitutes their frame of reference. The Application of Spain directly attacks the title asserted to justify the Canadian measures and their actions to enforce them, a piece of legislation which, going a great deal further than the mere management and conservation of fishery resources, is in itself an internationally wrongful act of Canada, as it is contrary to the fundamental principles and norms of international law; a piece of legislation which for that reason does not fall exclusively within the jurisdiction of Canada either, according to its own Declaration (paragraph 2 (c) thereof). Moreover, only as from 3 March 1995 has an attempt been made to extend that legislation, in a discriminatory manner, to ships flying the flags of Spain and Portugal, which has led to the serious offences against international law set forth above."

132. While expressly reserving the right to modify and extend the terms of the Application, as well as the grounds invoked, and the right to request the appropriate provisional measures, the Kingdom of Spain requested:

> "(A) that the Court declare that the legislation of Canada, in so far as it claims to exercise a jurisdiction over ships flying a foreign flag on the high seas, outside the exclusive economic zone of Canada, is not opposable to the Kingdom of Spain;

(B) that the Court adjudge and declare that Canada is bound to refrain from any repetition of the complained of acts, and to offer to the Kingdom of Spain the reparation that is due, in the form of an indemnity the amount of which must cover all the damages and injuries occasioned; and

(C) that, consequently, the Court declare also that the boarding on the high seas, on 9 March 1995, of the ship Estai flying the flag of Spain and the measures of coercion and the exercise of jurisdiction over that ship and over its captain constitute a concrete violation of the aforementioned principles and norms of international law;"

133. By a letter dated 21 April 1995, the Ambassador of Canada to the Netherlands informed the Court that, in the view of his Government, the Court manifestly lacked jurisdiction to deal with the Application filed by Spain by reason of paragraph 2 (d) of the Declaration, dated 10 May 1994, whereby Canada accepted the compulsory jurisdiction of the Court.

134. Taking into account an agreement concerning the procedure reached between the Parties at a meeting with the President of the Court, held on 27 April 1995, the President, by an Order of 2 May 1995, decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed 29 September 1995 as the time-limit for the filing of the Memorial of the Kingdom of Spain and 29 February 1996 for the filing of the Counter-Memorial of Canada. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

135. Spain chose Mr. Santiago Torres-Bernárdez and Canada Mr. Marc Lalonde to sit as judges ad hoc.

136. The Spanish Government subsequently expressed its wish to be authorized to file a Reply; the Canadian Government opposed this. By an Order of 8 May 1996, (I.C.J. Reports 1996 p. 58) the Court, considering that it was "sufficiently informed, at this stage, of the contentions of fact and law on which the Parties rely with respect to its jurisdiction in the case and whereas the presentation by them, of other written pleadings on that question therefore does not appea

necessary", decided by fifteen votes to two, not to authorize the filing of a Reply by the Applicant and a Rejoinder by the Respondent on the question of jurisdiction.

137. Judge Vereshchetin and Judge ad hoc Torres Bernárdez voted against; the latter (ibid., p. 61) appended a dissenting opinion to the Order.

9. Kasikili/Sedudu Island (Botswana/Namibia)

138. On 29 May 1996 the Government of the Republic of Botswana and the Government of the Republic of Namibia notified jointly to the Registrar of the Court a Special Agreement between the two States signed at Gaborone on 15 February 1996 and which came into force on 15 May 1996, for the submission to the Court of the dispute existing between them concerning the boundary around Kasikili/Sedudu Island and the legal status of that island.

139. The Special Agreement refers to a Treaty between Great Britain and Germany respecting the spheres of influence of the two countries, signed on 1 July 1890, and to the appointment, on 24 May 1992, of a Joint Team of Technical Experts "to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island" on the basis of that Treaty and of the applicable principles of international law. Unable to reach a conclusion on the question the Joint Team of Technical Experts recommended "recourse to the peaceful settlement of the dispute on the basis of the applicable rules and principles of international law". At the Summit Meeting held in Harare, Zimbabwe, on 15 February 1995, President Masire of Botswana and President Nujoma of Namibia agreed "to submit the dispute to the International Court of Justice for a final and binding determination".

140. Under the terms of the Special Agreement, the Parties ask the Court to

> "determine, on the basis of the Anglo-Germany Treaty of 1st July 1890 and the rules and principles of international law, the boundary between Namibia and Botswana around Kasikili/Sedudu Island and the legal status of the island."

141. By an Order of 24 June 1996 (I.C.J. Reports 1996, p. 63), the Court fixed 28 February and 28 November 1997 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial. A Memorial was filed by each of the Parties within the prescribed time-limit.

IV. THE ROLE OF THE COURT

142. At the 34th meeting of the fifty-first session of the General Assembly, held on 15 October 1996, at which the Assembly took note of the report of the Court for the period from 1 August 1995 to 31 July 1996, the President of the Court, Judge Mohammed Bedjaoui, addressed the General Assembly on "The Limitations on the Contribution by the International Court of Justice to the Maintenance of Peace." (A/51/PV.34.)

143. On 4 November 1996, the President addressed the Sixth Committee of the General Assembly on "The Forum Prorogatum before the International Court of Justice: The Resources of an Institution or the Hidden Face of Consensualism."

144. On the same day, the President addressed the sixth informal meeting of Legal Advisers to Ministries of Foreign Affairs of States Members of the United Nations on "The 'Manufacture' of Judgments at the International Court of Justice."

V. VISITS

A. Visit by the Secretary-General of the United Nations

145. On 3 March 1997, the Secretary-General of the United Nations, H. E. Mr. Kofi Annan, made an official visit to the Court. He was received by the Members of the Court and held private exchanges with the Court. The President gave a dinner in his honour on the evening of 2 March.

B. Visits of Heads of State

146. On 23 January 1997 the President of Guatemala, H. E. Mr. Alvaro Arzú, who was visiting the Netherlands, came to visit the premises which the International Court of Justice occupies in the Peace Palace. On that occasion, he was received by the President and by Members of the Court. The President of the Court congratulated the President of Guatemala on his achievements in the cause of peace and stability, and in particular on the conclusion of the historic peace accord of December 1996 with the leaders of the National Guatemala Revolutionary Unity, to put an end to 36 years of bitter and unsettling civil conflict. The President of Guatemala, in his reply, referred to his country's awareness of the role of the Court in the settlement of disputes and in the promotion of peace through justice in international relations.

147. On 19 March 1997, the President of Ireland, H. E. Mrs. Mary Robinson, who was on a working visit to the Netherlands, visited the Court. She was received by the President and Members of the Court. Members of the Court described the Court's current caseload and human rights aspects of the Court's jurisprudence. President Robinson expressed her appreciation of the importance of the role of the judiciary in general and of the International Court of Justice in particular. She expressed special interest in the contributions of the Court to the development of human rights and international humanitarian law. She also referred to the desirability of wider acceptance of the compulsory jurisdiction of the Court.

C. Visits of Members of Government and other high officials

148. Several Members of Government of States paid a visit to the Court. They were received by the President and Members and the Court and an exchange of views took place during a small reception held in their honour. They were:

— on 11 September 1996, H.E. Mr. Li Ruihuan, Chairman of the National Committee of the Chinese People's Political Consultative Conference, People's Republic of China;

— on 27 September 1996, H.E. Mr. Dato' Abang Abu Bakar bin Datu Bandar Abang Haji Mustapha, Minister in the Prime Minister's Department, Malaysia;

— on 28 January 1997, H.E. Mr. Alexander Downer, Minister for Foreign Affairs of Australia; and

— on 9 April 1997, H.E. Mrs. Maria Emma Mejia, Foreign Minister of Colombia.

VI. LECTURES ON THE WORK OF THE COURT

149. Many talks and lectures on the Court, both at the seat of the Court and elsewhere, were given by the President, Members of the Court, the Registrar and officials of the Court in order to improve public understanding of the judicial settlement of international disputes, the jurisdiction of the Court and its function in contentious and advisory cases. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals as well as others, amounting to some 3,000 persons in all.

VII. COMMITTEES OF THE COURT

150. The committees constituted by the Court to facilitate the performance of its administrative tasks, which met as required during the period under review, are composed as follows:

(a) The Budgetary and Administrative Committee: the President, the Vice-President and Judges Bedjaoui, Guillaume, Shi, Fleischhauer; Vereshchetin and Kooijmans.

(b) The Committee on Relations: The Vice-President and Judges Herczegh, Ranjeva, Vereshchetin and Parra-Aranguren.

(c) The Library Committee: Judges Shi, Koroma, Higgins, Koojmans and Rezek.

151. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Oda, Guillaume, Fleischhauer, Koroma, Higgins and Rezek.

VIII. PUBLICATIONS AND DOCUMENTS OF THE COURT

152. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized by the Sales Sections of the United Nations Secretariat, which are in contact with specialized booksellers and distributors throughout the world. A catalogue published in English (latest edition: December 1995) and French (latest edition: 1994 - latest Addenda: December 1995) is distributed free of charge. A new edition of the French catalogue and an Addendum to the English one is planned for December 1997.

153. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Bibliography of works and documents relating to the Court, and a Yearbook (in the French version: Annuaire). In the first series, the latest bound volume published is I.C.J. Reports 1994. I.C.J. Reports 1995 will appear after the publication of the Index 1995, which is in press. The latest separate fascicle to have been published for 1996 is the Advisory Opinion of 8 July in the case concerning the Legality of the Use by a State of Nuclear Weapons in Armed Conflict (request made by the WHO). Due to delays occasioned essentially by the present budgetary restrictions, it has not been possible as yet to publish the remaining fascicles for that year. They are the following: the Advisory Opinion of 8 July 1996 in the case concerning the Legality of the Threat or Use of Nuclear Weapons (request made by the General Assembly); the Judgment of 11 July 1996; and the Order of 23 July 1996 in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia); the Order of 30 October 1996 in the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain; the Judgment of 12 December 1996; and the Order of 16 December 1996 in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America). The latest fascicle published for the year 1997 is the Order of 5 February 1997 in the Gabčíkovo-Nagymaros Project (Hungary/Slovakia) case. Bibliography No. 49 (1995) has been published during the period covered by this report. The

Court further publishes the instruments instituting proceedings in a case before it: an Application instituting proceedings, a Special Agreement or a Request for an Advisory Opinion. The latest of these publications is the Special Agreement between Botswana and Namibia whereby they submitted to the Court, on 29 May 1996, their dispute concerning the boundary around Kasikili/Sedudu Island and the legal status of the island.

154. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and documents available on request to the Government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of the pleadings accessible to the public on or after the opening of the oral proceedings. The documentation of each case is published by the Court after the end of the proceedings, under the title Pleadings, Oral Arguments, Documents. In that series, several volumes are in preparation, regarding the cases concerning the Frontier Dispute (Burkina Faso/Republic of Mali), Border and Transborder Armed Actions (Nicaragua v. Honduras) and Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America); the printing of some of these volumes is planned for end 1997. The publication of the Pleadings series is in grave arrears, because of shortage of staff.

155. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition (No. 5) was published in 1989 and is regularly reprinted (latest reprint: 1996).

156. An offprint of the Rules of Court is available in English and French. Unofficial Arabic, Chinese, German, Russian and Spanish translations of the Rules are also available.

157. The Court distributes press communiqués, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fourth edition of the handbook, published on the occasion of the Court's 50th Anniversary, appeared in May and July 1997 in French and English respectively. Arabic, Chinese, Russian and Spanish translations of the handbook published on the occasion of the 40th Anniversary of the Court were issued in 1990.

Copies of those editions of the handbook in the above-mentioned languages, as well as of a German version of the first edition, are still available.

158. The Members of the Court decided that the Court should develop a website in order to increase the availability of ICJ documents and reduce communication costs. The website is now under construction and an expanding number of documents will be made available to the public as of the fall of 1997. The website can be visited at http://www.icj-cij.org.

159. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 1996-1997, to be issued in due course.

(Signed) Stephen M. Schwebel
President of the International
Court of Justice

The Hague, 8 August 1997